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REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 1-20 are pending in the application. Claims 17 and 20 have been amended. The amendment is fully supported by the original disclosure. No new matter has been introduced. Assignee asserts that no prosecution history estoppel should result from the above amendments where the amendments were made to clarify Assignee's claims and/or broaden scope of the amended claims.

Claim rejections - 35 USC §101

The Examiner has rejected claim 17 as being directed to non-statutory subject matter.

In response, Assignee has amended claim 17 to more clearly claim statutory subject matter. It is therefore believed that the rejection should be withdrawn in view of the amendment to claim 17.

Claim rejections - 35 USC §102

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Selby (U.S. Pat. No. 5,404,232). These rejections are respectfully traversed.

Assignee respectfully submits that Selby does not disclose all of the elements of independent claim 1. The Examiner is kindly reminded that the Examiner's initial burden of factually supporting any conclusion of anticipation includes that:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (See MPEP § 2131.01.)

First, the Examiner has not established that Selby discloses "computing respective differences between adjacent sensing values; storing said base value and said respective differences", as recited in claim 1. In the Office Action the Examiner has asserted that:

Selby discloses that the averages of the white strip and black strip are fed into a correction algorithm to adjust offset and gain (column 6, lines 33-43). These values are placed into an algorithm, which requires computation in order to be performed. Selby discloses that the test strips are scanned and the reflectivity value is temporarily stored for obtaining revised averages (column 6, lines 50-54). Selby discloses a reflectivity value (base value), which is stored in order to obtain averages, which are also stored when used in the correction algorithm (column 6, lines 33-43). (See page 2 of the Office Action).

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be first sensing values such as "reading image information comprising sensing values", second a base value such as "determining a base value in accordance with said sensing values of said calibration plate", and third respective differences such as "computing respective differences between adjacent sensing values; storing said base value and said respective differences", as recited in claim 1. Conversely, in column 6, lines 50-53 of Selby, is described as follows:

One expedient variation to this system is simply to scan the test strips a single time, and then store the reflectivity values in a temporary memory for obtaining the revised averages, instead of re-scanning. (See column 6, lines 50-53 of Selby)

Assignee respectfully submits that regardless of the Examiner's interpretation, the reflectivity values discussed in Selby are incapable of anticipating both the recited "sensing values" and the recited "base value", as claimed. In the absence of the Examiner pointing to such a disclosure in

Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131.

Second, the Examiner has not established that Selby discloses "computing respective differences between adjacent sensing values", as recited in claim 1. In the Office Action the Examiner has asserted that:

With respect to claim 1, Selby discloses a calibration method comprising: reading image information comprising sensing values from a calibration plate having a plurality of pixels of an image of a calibration plate (column 4 lines 5-8), wherein a sensing value corresponds to one of said pixels (column 4 lines 24-28); determining a base value in accordance with said sensing values of said calibration plate (column 4 lines 34-35); computing respective differences between adjacent sensing values (column 6 lines 36-39); storing said base value and said respective differences (column 3 line 52; column 6 lines 51-52); and calibrating image information of an object, wherein said base value is added to a first sensing value of the image information and said object and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto (column 5 lines 7-19, 60). (See page 4 of the Office Action).

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be "computing respective differences between adjacent sensing values", as recited in claim 1. Conversely, column 6, lines 36-39 of Selby read as follows:

Once the revised averages of reflectivities for the white test strip and the black test strip are obtained through the method of the present invention, these revised averages are then "fed in" to the correction algorithms for adjusting offset (i.e. adding or subtracting an offset related to the revised average reflectivity of the black test strip) or gain (i.e. multiplying an actual output from the photosensor by a correction factor related to the revised average reflectivity of the white test strip), much in the manner of the straightforward calibration system of the prior art. (See column 6, lines 36-39 of Selby)

Assignee respectfully submits that the Examiner has failed to establish that the computation of revised averages discussed in Selby would necessarily teach or disclose "computing respective differences" let alone "computing respective differences between adjacent sensing values", as claimed. In the absence of the Examiner pointing to such a disclosure in Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131.

Third, the Examiner has not established that Selby discloses "calibrating image information of an object, wherein said base value is added to a first sensing value of the image information of said object and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto", as recited in claim

1. In the Office Action the Examiner has asserted that:

With respect to claim 1, Selby discloses ... calibrating image information of an object, wherein said base value is added to a first sensing value of the image information and said object and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto (column 5 lines 7-19, 60). (See page 4 of the Office Action)

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be "calibrating image information of an object, wherein said base value is added to a first sensing value of the image information of said object and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto", as recited in claim 1. Conversely, column 5, lines 7-19, as well as column 5, lines 57-61 of Selby read as follows:

In order to adapt the actual output signal from the photosensor, both the gain and offset must be compensated for, when actual image data from a image such as on a sheet S is being recorded. For the particular photosensor shown in the Figure, the offset must be compensated for by subtracting 20 from the raw digital output of the photosensor, and the gain must be corrected by normalizing the actual gain (i.e., adjusting the digital output) by a factor of $230/(240-20)=1.045$. Such a correction of both the gain and offset may be accomplished individually, through software means known in the art, for each individual photosensor in the array 20. (See column 5, lines 7-19 of Selby)

As shown at the top portion of the flowchart, a plurality of pixel areas in the white test strip are scanned by one photosensor, and during the scanning process a running average is maintained of reflectivities across the strip. When the final average is determined, a threshold value is derived from this average. (See column 5, lines 57-61 of Selby)

Assignee respectfully submits that the Examiner has not established that the use of the gain as a "factor" in Selby is a mathematical equivalent of being "added" as claimed. Further, the Examiner has not established that the use of the offset in Selby teaches or suggests both "said base value is added to a first sensing value of the image information of said object" and that "each sequential sensing value of the image information of said object is added by one of said respective differences" as recited in independent claims 1. In the absence of the Examiner pointing to such a disclosure in Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131. Claims 2-6 and 13-16 are similarly not anticipated, at least on the same or similar basis as claim 1.

Additionally, Assignee respectfully submits the Examiner has not established that Selby discloses all of the elements of independent claim 7. For example, Examiner has not established that Selby discloses "computing a difference between said base value and each of said sensing

values of said calibration plate; storing said base value and said differences". In the Office Action the Examiner has asserted that:

Selby discloses that the averages of the white strip and black strip are fed into a correction algorithm to adjust offset and gain (column 6, lines 33-43). These values are placed into an algorithm, which requires computation in order to be performed. Selby discloses that the test strips are scanned and the reflectivity value is temporarily stored for obtaining revised averages (column 6, lines 50-54). Selby discloses a reflectivity value (base value), which is stored in order to obtain averages, which are also stored when used in the correction algorithm (column 6, lines 33-43). (See page 2 of the Office Action, emphasis added).

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be first sensing values such as "reading image information comprising sensing values", second a base value such as "determining a base value in accordance with said sensing values of said calibration plate", and third differences such as "computing a difference between said base value and each of said sensing values of said calibration plate; storing said base value and said differences", as recited in claim 7. Conversely, in column 6, lines 50-53 of Selby, is described as follows:

One expedient variation to this system is simply to scan the test strips a single time, and then store the reflectivity values in a temporary memory for obtaining the revised averages, instead of re-scanning. (See column 6, lines 50-53 of Selby, emphasis added.)

Assignee respectfully submits that regardless of the Examiner's interpretation, the reflectivity values discussed in Selby are incapable of anticipating both the recited "sensing values" and the recited "base value", as claimed. In the absence of the Examiner pointing to such a disclosure in

Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131.

Second, the Examiner has not established that Selby discloses "computing a difference between said base value and each of said sensing values of said calibration plate", as recited in claim 7. In the Office Action the Examiner has asserted that:

With respect to claim 7, Selby discloses a comprising: reading image information comprising sensing values from a plurality of pixels of an image of a calibration plate (column 4 lines 5-8), wherein a sensing value corresponds to one of said pixels (column 4 lines 24-28); determining a base value in accordance with said sensing values of said calibration plate (column 4 lines 34-35); computing a difference between said base value and each of said sensing values of said calibration plate (column 4 lines 34-35; column 6 lines 45-49); storing said base value and said respective differences (column 3 line 52; column 6 lines 51-52); and calibrating image information of an object, wherein said base value is added to a first sensing value of the image information and said object, and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto (column 5 lines 7-19, 60). (See page 5 of the Office Action, emphasis added).

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be "computing a difference between said base value and each of said sensing values of said calibration plate", as recited in claim 7. Conversely, column 4, lines 34-35 as well as column 6, lines 45-49 of Selby read as follows:

Typically, the respective average "white" value (corresponding to the samples taken for each photosensor in the white test strip 30) and average "black" value (corresponding to the sampled regions for each photosensor in the black test strip 32) are merely averaged to obtain predetermined white and black values for the responsivity of the individual photosensor when the individual photosensor is used to scan an image on sheet S. (See column 4, lines 34-35 of Selby, emphasis added.)

Although the example shown in FIG. 2 discloses the behavior of a single photosensor in the array 20, it will be apparent to one skilled in the art that the system of the present invention can be carried out on every single photosensor in the array 20, or on a specific subset of photosensors in the array 20. (See column 6, lines 45-49 of Selby, emphasis added.)

Assignee respectfully submits that the Examiner has failed to establish that the computation of average white and black values discussed in Selby would necessarily teach or disclose "computing a difference" let alone "computing a difference between said base value and each of said sensing values", as claimed. In the absence of the Examiner pointing to such a disclosure in Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131.

Third, the Examiner has not established that Selby discloses "calibrating image information of an object, wherein each sensing value of the image information of said object is added by said base value and one of said differences corresponding thereto", as recited in claim

7. In the Office Action the Examiner has asserted that:

With respect to claim 7, Selby discloses a comprising: reading image information comprising sensing values from a plurality of pixels of an image of a calibration plate (column 4 lines 5-8), wherein a sensing value corresponds to one of said pixels (column 4 lines 24-28); determining a base value in accordance with said sensing values of said calibration plate (column 4 lines 34-35); computing a difference between said base value and each of said sensing values of said calibration plate (column 4 lines 34-35; column 6 lines 45-49); storing said base value and said respective differences (column 3 line 52; column 6 lines 51-52); and calibrating image information of an object, wherein said base value is added to a first sensing value of the image information and said object and each sequential sensing value of the image information of said object is added by one of said respective differences corresponding thereto (column 5 lines 7-19, 60). (See page 5 of the Office Action, emphasis added).

Assignee cannot agree. Specifically, the Examiner has provided no support from Selby that there be "calibrating image information of an object, wherein each sensing value of the image information of said object is added by said base value and one of said differences corresponding thereto", as recited in claim 7. Conversely, column 5, lines 7-19, as well as column 5, lines 57-61 of Selby read as follows:

In order to adapt the actual output signal from the photosensor, both the gain and offset must be compensated for, when actual image data from an image such as on a sheet S is being recorded. For the particular photosensor shown in the Figure, the offset must be compensated for by subtracting 20 from the raw digital output of the photosensor, and the gain must be corrected by normalizing the actual gain (i.e., adjusting the digital output) by a factor of $230/(240-20)=1.045$. Such a correction of both the gain and offset may be accomplished individually, through software means known in the art, for each individual photosensor in the array 20. (See column 5, lines 7-19 of Selby, emphasis added.)

As shown at the top portion of the flowchart, a plurality of pixel areas in the white test strip are scanned by one photosensor, and during the scanning process a running average is maintained of reflectivities across the strip. When the final average is determined, a threshold value is derived from this average. (See column 5, lines 57-61 of Selby, emphasis added.)

Assignee respectfully submits that the Examiner has not established that the use of the gain as a "factor" in Selby is a mathematical equivalent of being "added" as claimed. Further, the Examiner has not established that the use of the offset in Selby teaches or suggests both "each sensing value of the image information of said object is added by said base value" and that "each sensing value of the image information of said object is added by ... one of said differences" as recited in independent claim 7. In the absence of the Examiner pointing to such a disclosure in Selby, Assignee requests that the rejection be withdrawn as the Examiner has failed to establish that Selby discloses the identical invention as is required for anticipation. See MPEP § 2131.

Claims 8-12 and 17-20 are similarly not anticipated, at least on the same or similar basis as claim 7.

It is noted that claimed subject matter may be patentably distinguished from the cited references for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

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Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is invited to call the undersigned attorney, James J. Lynch, at (503) 439-6500 if there remains any issue with allowance.

Additional fees

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,
Attorney for Assignee

Dated: October 5, 2006

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